IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 30871 of 2007(A)

AGAINST THE ORDER IN IA 1288/2007. IN OS.81/2007 of M.C.,PARAPPANANGADI

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PETITIONER:

POOLAKKAL MOIDEEN KUTTY,
AGED 50 YEARS, S/O MUHAMMED,
TIRURANGADI TALUK, TRIKKULAM AMSOM,DESOM.

BY ADV. SRI.JOSE K.KOCHUPAPPU
SRI.T.M.CHANDRAN

RESPONDENTS:

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1. VILLAKKANDATHIL MUHAMMED HAJI,
52 YEARS, C.K.NAGAR, TIRURANGADI TALUK,
TRIKKULAM AMSOM & DESOM.

2. MANAGER(ADMINISTRATION),
TATA TELE SERVICES LTD., KOCHI.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.30871 of 2007

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Dated this the 18th day of October, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the learned Munsiff, Parappanangadi in I.A.No.1288 of 2007 in O.S.No.81 of 2007. It was an application filed by the plaintiff for appointing a Scientific Expert to elicit scientific materials which are necessary for a proper disposal of the case. The court below found that already it has appointed one Expert and the report is filed before the court. I am not going into the merits or demerits of the report at this juncture. But when a report submitted by a Scientific Expert is before the court until and unless it is proved to be wrong, it may not be a correct procedure to go on appointing Experts after Experts and gets reports. If a person is aggrieved or wants to establish before the court that the report submitted by the Scientific Expert is incorrect, it is for him to adduce necessary evidence challenging the correctness of the

report. If the court at that stage feels that it is incorrect, then it is always at liberty to get or accept appropriate scientific evidence for a proper decision in the matter. Regarding pollution on account of usage of Diesel Generator, the party is at liberty to adduce scientific evidence.

2. Therefore, at this stage, the order of the court below is not to be interfered with and the Writ Petition is dismissed making it clear that the Writ Petitioner can adduce scientific evidence and if the court at any stage of the proceedings feels that the present report available is incorrect, then the court is at liberty to get expert opinion again for a proper consideration and disposal of the matter.

M.N.Krishnan,
Judge.

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